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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,907	08/21/2003	Hans Boeck	Q74473	6445
23373	7590	06/14/2005		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/644,907

Applicant(s)

BOECK ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 3-7 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**TEST STAND WITH TIPPING DEVICE FOR MOTOR VEHICLES**

**NON-FINAL OFFICE ACTION**

In response to the Applicant's Request for Continued Examination (RCE) with amendment dated March 31, 2005.

**CLAIMS**

In view of the Applicant's amendments to the claims, the claim rejections as set forth in the previous office action (Nov. 02, 2004) have been overcome and withdrawn. However, the following now applies:

35 U.S.C. § 102(e)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8, 9, and 11-19 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kemp et al. (2003/0230137).

With respect to independent claims 1, 11, and 16, Kemp et al. clearly anticipates in Fig. 14 a test stand for motor vehicles, having a tipping device comprising:

a lower frame unit;

an upper frame unit configured to tip relative to the lower frame unit; and

four lifting units respectively disposed in corner zones of the frame units, each of the lifting units operable to independently tip the upper frame.

With respect to claims 2, 8, 9, 12-15, and 17-19, Kemp et al. clearly anticipates the claimed subject matter thereof by way of Fig. 14.

35 U.S.C. § 102(b)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9, and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (2,929,519).

With respect to independent claim 1, Taylor clearly anticipates by way of Fig. 1 a stand having a tipping device comprising:

- a lower frame unit;
- an upper frame unit configured to tip relative to the lower frame unit; and
- four lifting units respectively disposed in corner zones of the frame units, each of the lifting units operable to independently tip the upper frame.

It is noted that the phrase “Test stand for motor vehicles” in the preamble of claim 1 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

With respect to claim 2, Taylor suggests in Fig. 1 the lower frame unit and the upper frame unit are interconnected exclusively via the lifting units.

With respect to claim 8, Taylor suggests the four lifting units being configured exclusively for tipping the upper frame unit (Fig. 5).

With respect to claim 9, Taylor suggests the lifting units are controlled with a control terminal via a central control unit (Fig. 1; 81-84, 86).

With respect to independent claim 11, Taylor clearly anticipates by way of Fig. 1 a stand having a tipping device comprising:

- a lower frame unit;
- an upper frame unit configured to tip relative to the lower frame unit; and
- lifting means attached to the lower frame unit and connectable to the upper frame that tip the upper frame, the lifting means providing the sole source of tipping.

It is noted that the phrase "Test stand for motor vehicles" in the preamble of claim 11 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

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With respect to claim 12, Taylor suggests the lifting means being disposed in corner zones of the frame units (Fig. 1).

With respect to claim 13, Taylor suggests the lifting means includes four piston rods (the piston rods of each of the respective cylinder hoists, 48).

With respect to claim 14, Taylor suggests that the piston rods are independently operable (col. 5, lines 1-9).

With respect to claim 15, Taylor suggests the lifting means being operable to tilt any load thereon, and thus a vehicle, in at least one of a longitudinal and transverse direction relative to an axis of the load/vehicle (Figs. 1 & 5).

With respect to independent claim 16, Taylor clearly anticipates by way of Fig. 1 a stand having a tipping device comprising:

- a lower frame unit;

- an upper frame unit configured to tip relative to the lower frame unit; and

- lifting units extendable in an axial direction, each of the lifting units operable to independently (col. 5, lines 1-9) tip the upper frame.

It is noted that the phrase "Test stand for motor vehicles" in the preamble of claim 16 has not been given patentable weight because the body of the claim does not rely upon the said phrase for completeness (ie. the body of the claim does not require a test stand for a motor vehicle).

With respect to claim 17, Taylor suggests each of the lifting units being independently extendable (col. 5, lines 1-9).

With respect to claim 18, Taylor suggests the lifting units being operable to tilt any load thereon, and thus a vehicle, in at least one of a longitudinal and transverse direction relative to an axis of the load/vehicle (Figs. 1 & 5).

With respect to claim 19, Taylor suggests the lifting units comprising four piston rods (the piston rods of each of the respective cylinder hoists, 48) disposed in corner zones of the frame units (Fig. 1).

*Allowable Subject Matter*

Claims 3-7 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 has been found to be allowable over the prior art.



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**RELEVANT ART**


The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record at the time of this action.

**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Eric S. McCall  
Primary Examiner  
Art Unit 2855  
June 09, 2005